GOVERNMENT OF ANDHRA PRADESH
ABSTRACT

Tribal Welfare Department – East Godavari District - Revision Petition filed by Sri Simhadri Ramadasu and 2 others S/o Late Narayanamurthy R/o Pidathamamidi village Gangavaram Mandal, East Godavari District against the orders of the Additional Agent to Government in CMA No.61/2005, Dated: 29.10.2005 in respect of land admeasuring Acs.14.58 cts of land in Sy.No. 151/1, 151/3 situated at Pidathamamidi (V) Gangavaram Mandal East Godavari District - Rejected – Orders – Issued.

SOCIAL WELFARE (TW.LTR-2) DEPARTMENT

G.O.MS.No. 89 Dated: 26.11.2015

Read the following:-

1. Revision Petition filed by Sri Simhadri Ramadasu and 2 others S/o Late Narayanamurthy R/o Pidathamamidi village Gangavaram Mandal, East Godavari District dated:21.01.2006.
2. Govt.Memo.No.1325/LTR-2/2006-1, dt. 06.06.2006.
3. From the Project Officer, ITDA, Rampachodavaram, East Godavari District T8/ Memo.No. 1325/ LTR-2/2006-1, Dt.06.06.2006 in CMA No.61 of 2005.
4. Govt.Lr.No.1325/LTR-2/2006, dt.26.05.2015.

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ORDER:-

In the reference first read above Sri Simhadri Ramadasu and 2 others S/o Late Narayanamurthy R/o Pidathamamidi village Gangavaram Mandal, East Godavari District has filed a Revision Petition before the Government against the orders of the Additional Agent to Government in CMA No.61/2005, dt.29.10.2005 in respect of land admeasuring 14.58 cts of land in Sy.No. 151/1, 151/3 situated at Pidathamamidi (V) Gangavaram Mandal East Godavari District, wherein the Additional Agent to Government, Rampachodavaram dismissed the Appeal upholding the order passed by the Special Deputy Collector (Tribal Welfare) Rampachodavaram in LTRP No.90/2003. Dt.27.01.2004.

2. The Government, in the reference 2nd read above, have admitted the said Revision Petition and requested the Collector, East Godavari District to furnish the parawise remarks and connected case records on the Revision Petition to Government.

3. In the reference 3rd read above, the Project Officer, ITDA Rampachodavaram, East Godavari District has furnished parawise remarks along with the connected records.

4. The facts of the case in brief are:

The Special Deputy Collector cum Agency Divisional Officer, Rampachodavaram by his orders in LTRP No.90/2003, dated 27.01.2004 has held that as per sale deed 645/63. Dated.10.3.63, the land measuring total extent of Ac.14.58 cts (i.e Ac.13.85 in Sy.No.151-1 and Ac.0.73 in Sy.No.151/3) situated at Pedathamamidi village, Gangavaram Mandal is in possession of the Revision Petitioners' family (Respondents in LTRP) from 1963 is contrary to Sec.3 of AP Schedule area LT Regulation 1 of 59 as amended by regulation 1 of 70 mainly on the ground that the Revision Petitioner did not obtain prior permission from the Agent to Government as required under Sec.3(1) and (2) of APSCLTR 1/59 and hence the alienation if any is null and void.

5. In fact the Special Deputy Tahsildar filed application for the ejectment of Revision Petitioner from petition schedule property and for delivery of the same to Government. The said matter was held against the Revision Petitioner by Special Deputy Collector (Tribal Welfare) whereby the Revision Petitioner was ordered to be evicted from the Petition Schedule property. Against the same the Revision Petitioner filed Appeal CMA No.61/2005, dated.22.10.2005 before the Additional Agent to Government, Rampachodavaram who dismissed the said Appeal confirming the order of Special Deputy Collector (Tribal Welfare). Aggrieved by the same the present Revision Petition.

(P.T.O)

6. The point for consideration is whether the order of Additional Agent to Government who dismissed the Appeal filed by the Revision Petitioner herein, by confirming the orders passed by the Learned Deputy Collector (Tribal Welfare) is sustainable or not.

7. Sec.3(1) (a) (b) of APSALT regulation which deals with the subject matter is extracted hereunder:

"Sec.3: Transfer of immovable property by a member of a Schedule Tribe:-

1(a) Notwithstanding anything by enactment, rule or law in force in the Agency tracts any transfer of immovable property situated in the Agency tracts by a person. Whether or not such a person is a member of a Schedule Tribe, shall be absolutely null and void, unless such transfer is made in favour of a person who is a member of Schedule Tribe or a Society registered or deemed to be registered under the Andhra Pradesh Cooperative Societies Act, 1964 (Act 7 of 1964) which is composed by society members of the Schedule Tribe.

1(b) Until the contrary is proved any immovable property situated in the Agency tracts and in the possession of a person who is not a member of Schedule Tribe, shall be presumed to have been acquired by person or his Predecessor in possession through a transfer made to him by a member of a Schedule Tribe".

8. For the sake of convenience, the parties to the Revision are referred to as Revision Petitioner and the Respondents as shown in the Revision Petition.

9. The above Revision Petition having been stood over for consideration till 13.06.2015 before the Government and the matter having been heard in the presence of both parties on 13.06.2015 the Government passes the following orders:-

10. The order of the Additional Agent to Government which is impugned herein discloses that the Revision Petitioner produced the copy of a registered sale deed dated 10.03.1963 vide registered document No.645/1963, to prove his title. Basically heavy burden lies on a non-tribe who claims right and title in an agency area, as per Sec.3(1) and (b) of LTR 1/59 as amended by Regulation 1/70. Even though the said sale deed is prior to APSALT Regulation 1 of 1970, the permission in writing of Agent to Government for such alienation is a condition precedent for valid alienation as per APSALT regulation 1 of 1959. On meticulous reading of the Xerox copy of sale deed found in the record, such permission letter is not referred to anywhere in the recitals of the said sale deed. The sale deed without sanction of Agent to Government is hit under APSALT regulation 1 of 1959 and hence is null and void. However long possession may be, the non-tribal is liable to eviction from the immovable property in agency area, unless he has a valid right and title to it either by way of a registered sale deed with permission if it is prior to 1/70 or by way of a grant under settlement laws. Otherwise his possession becomes illegal in view of over riding clause and the prohibition of alienations, as mentioned in Section 3 of the APSALT Regulation 1 of 1959.

11. The Hon'ble Supreme Court in C.A.No.4601 and 4602 of 1997 and batch in Samath Vs. Government of A.P has held that the transfer of land by juristic person or allotment of land by State to a Non Tribe is prohibited.

12. The full Bench of Hon'ble High Court of A.P. has held that the transfer of land by one Non-Tribe to another Non-Tribe is null and void under Section 1 and 3 of APSALT Regulation 1 of 1970 (as reported in 1993 (1) ALT page 409 (FB).

13. The Petitioner is also not entitled to get settlement patta under APSA Ryotwari Settlement Regulation 1 of 1970 as he failed to satisfy all the 3 conditions as required under section 7 of the said Regulation.

14. Therefore, the Petitioners are liable to be ejected more so since their father while purchasing the land did not get permission from Agent to Government (or) Assistant Agent to Government as required under Regulation 1 of 59. Even such as embargo against the sale in favour of non-tribe is there under the Agency Tracts Interest and Land Transfer Act, 1917, unless it is with the previous consent in writing of Additional Agent to Government.

(P.T.O)

15. The Revision Petitioner did not produce any document of title and the APSALT Regulation basically is meant for the protection of interest and welfare of only Schedule Tribes as per the judgments of the Hon'ble High Court of A.P. and the Hon'ble Supreme Court.

16. A non-tribe who does not have a valid title under a document or patta or a grant under any act is not entitled to continue in possession and hence if he is found to be in possession of a schedule land in Agency Area is liable to be ejected and the opportunity given to him is sufficient as per the provisions of the said Regulation, further there is a presumption under Section 3 against such a non-tribe and hence the concurrent findings of facts by the learned Special Deputy Collector and Additional Agent to Government are correct and the same are not liable to be interfered with.

17. The contention of the learned Advocate that there is no prohibited transfer in the instant case is not acceptable as a non-tribe in Agency Area is not entitled to, acquire or occupy or to continue to be in possession of the same. If the non-tribe is evicted an eligible tribe can be immediately assigned the said property which obviously is the object and intendment of the above Regulation. More so as held by the Full Bench of Hon'ble High Court of A.P., and hence there is no error in the orders impugned in this Revision Petition.

18. There is no infirmity found either in the order of the Learned Special Deputy Collector, Rampachodavaram or Additional Agent to Government, Rampachodavaram, Accordingly the Revision Petition is dismissed.

19. The Additional Agent to Government, Rampachodavaram, East Godavari District is requested to take necessary action in the matter accordingly.

20. The original record bearing CMA No.61/2005, received from the Additional Agent to Government, Rampachodavaram, East Godavari District, through reference 3rd read above, is returned herewith and he is requested to acknowledge the receipt of the same immediately.

(BY ORDER AND IN THE NAME OF THE GOVERNOR OF ANDHRA PRADESH)

Dr. A. VIDYA SAGAR
PRINCIPAL SECRETARY TO GOVERNMENT (TW)

To:
The Collector & Agent to Government, Kakinada, East Godavari District.
The Additional Agent to Government & Project Officer, ITDA
Rampachodavaram, East Godavari District.(w.e.)
The Special Deputy Collector, Tribal Welfare, Rampachodavaram, East Godavari District.
Copy to:
Sri Badana Bhaskara Rao, Advocate, 201, Royal Residency, Humayun Nagar, Hyderabad – 500 028 .
Sri Simhadri Rama Dasu and Others, S/o.Narayana Murthy, R/o.Pedathamamidi (V), Gangavaram (M), East Godavari District.
The P.S to Hon'ble Minister (SWE & TWE) for information
The P.S to Principal Secretary to Government (TW)
SF/SC.

// FORWARDED:: BY ORDER //

SECTION OFFICER